

Attorney Docket No. RIB-001CP
(7995/3)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Steitz *et al.*
SERIAL NO.: 09/922,251~~8~~ GROUP NO.: 2878
FILING DATE: August 3, 2001 EXAMINER: Not yet assigned
TITLE: Ribosome Structure and Protein Synthesis Inhibitors

***STATEMENT OF FACTS IN SUPPORT OF
PETITION TO MAKE SPECIAL***

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Susan Froshauer, Ph.D., am providing this statement of facts in support of a petition to make the above-identified patent application special pursuant to 37 C.F.R. § 1.102(d) and MPEP § 708.02 (XII). I hereby declare and state as follows:

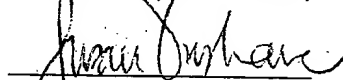
- (1) I am the President and Chief Executive Officer of Rib-X Pharmaceuticals, Inc. ("Rib-X").
- (2) Yale University is the owner by assignment of the above-identified patent application.
- (3) Yale University has granted Rib-X an exclusive license under the above-identified patent application.
- (4) Both Yale and Rib-X are entitled to, and hereby claim small entity status for the application. Yale is a nonprofit organization, and Rib-X is a small business concern.
- (5) Rib-X is a new bioscience company focused on the discovery of new anti-infective agents. The company's drug discovery program is focused on the exploitation of the high-resolution crystal structure of the 50S subunit of the ribosome, to which known antibiotics bind. The company's integrated research program combines a series of approaches including biochemistry, molecular

biology, microbiology, medicinal chemistry, x-ray crystallography and computational chemistry (see, Exhibit A).

- (6) The patent application is a major asset of Rib-X. The patent application relates to the high-resolution crystal structure of the 50S subunit of the ribosome and its use in the development of new anti-infective agents. The technology described in the patent application forms a core technology platform for Rib-X. Furthermore, the patent application and the potential exclusivity afforded by a patent issuing from the application represents a major company asset.
- (7) The development of the technology described in the patent application will be significantly impaired if examination of the patent application is delayed. Rib-X recently secured \$22 million in a Series A financing (see, Exhibit A). A major consideration of the investors at the time of the financing was the availability and existence of patent protection for the technology described in the patent application. Because drug discovery is expensive, Rib-X likely will have to secure additional rounds of financing to support the development of the technology. The early allowance of claims in the patent application likely will improve Rib-X's chances of attracting and securing additional rounds of financing to develop the technology further.
- (8) All statements made of my knowledge are true and all statements made on information are believed to be true. I understand that willful false statements and the like are punishable by fine, imprisonment, or both under 18 U.S.C. §1001, and may jeopardize the validity of the application or any patent issuing thereon.

Signed at New Haven, this 08th day of April, 2002.

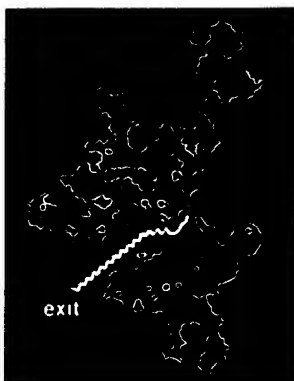
Respectfully submitted,



Susan Froshauer, Ph.D.
President & CEO
Rib-X Pharmaceuticals, Inc.



B/er
1631



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August 3, 2005

Assistant Commissioner Peggy Focarino
Deputy Commissioner for Patent Operations
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Application Serial No. 09/922,251

Dear Commissioner Focarino:

The purpose of this letter is two-fold -- first, to bring to your attention a situation involving unreasonable delays associated with a patent issuance, and second, to commend your people for the resolution of this situation.

The attached correspondence (a copy was sent to the USPTO for formal entry into the file wrapper) outlines this situation. As you will note, it relates to the nearly 14-month delay our company has experienced awaiting the issuance of a U.S. patent. The application relates to the high-resolution crystal structure of the 50S subunit of the ribosome and its use in the development of new anti-infective agents. The application was exclusively licensed by our company from Yale University and forms a core technology platform for our research and development programs. The importance of this patent application to our success as a biotech start-up was set forth in the Statement of Facts in Support of Petition to Make Special (also attached).

In view of the USPTO's commitment to total quality, we think you can understand and appreciate our frustration with the delays we have experienced with the issuance of a patent that is a major asset of our company. However, you should also be pleased to

learn that your people, particularly Director Richard Bawcombe, Ms. Janet Higgins, Ms. Darlene Lyon, and Ms. Nadine Clark, have been very responsive in helping to resolve this issuance delay.

Please feel free to contact me should it be useful to further discuss the matter.

Rib-X Pharmaceuticals, Inc.

By

A handwritten signature in dark ink, appearing to read 'Anthony D. Sabatelli', written over a horizontal line.

Anthony D. Sabatelli, Ph.D., J.D.
Registration No. 34,714

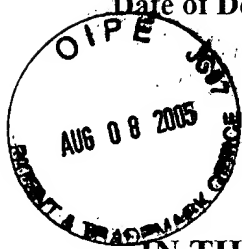
cc: S. Froshauer

attachments: correspondence (3 pages)
statement of facts in support of petition to make special (2)

Correspondence – USPTO – Commissioner Focarion – 080305.doc

Express Mail Label No.: ED 855211125 US

Date of Deposit: August 3, 2005



PATENT APPLICATION
Attorney Docket No. RIB-001CP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Steitz *et al.*
SERIAL NO.: 09/922,251 GROUP NO.: 1631
FILING DATE: August 3, 2001 EXAMINER: Channing Mahatan
TITLE: Ribosome Structure and Protein Synthesis Inhibitors (As filed)
Modulators of Ribosomal Function and Identification Thereof (As
Currently Amended)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CORRESPONDENCE TO BE ENTERED INTO FILE

Applicants respectfully request that this paper be entered into the file.

Mr. Richard A. Bawcomb
Director Office of Patent Publication
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Mr. Bawcomb:

This letter is to formally thank you and your people (especially Ms. Janet Higgins, Ms. Darleen Lions, and Ms. Nadine Clark) for investigating and resolving an USPTO clerical error apparently delaying the issuance of the above-captioned patent application. This letter is also to provide a record of the events described herein.

Background

The following summarizes the chronology relevant to the above-captioned application. On June 3, 2004, the USPTO issued a Notice of Allowance. Applicants paid the issue fee on June 11,

2004. By November 15, 2004, the application had not yet issued. Applicants then made periodic telephone inquiries to the USPTO from about November 15, 2004 through about April 26, 2005 about the status of the application and projected issue date. Based on these inquiries, Applicants believed that the application was close to issuance. However, on April 27, 2005, Applicants' outside counsel, Goodwin Procter LLP, received a "Notice of Drawing Inconsistency with Specification" that had been mailed from the USPTO on April 19, 2005. Applicants timely filed their response to this Notice (hand delivery to the USPTO) on May 9, 2005. On July 13, 2005, Applicants again resumed their telephone inquiries to check on the status of the application. Applicants' attorney, Dr. Anthony D. Sabatelli, spoke with Ms. Darlene Lions, Office of Patent Publication. Ms. Lions indicated that the application had been transferred to a Drawing Specialist on June 28, 2005 and that the file had not been returned for processing. She asked Applicants' Attorney to call back on July 20, 2005, when she would have further information about the application.

On July 20, 2005 Applicants' attorney, Dr. Sabatelli, again contacted Ms. Lions. She indicated that the records indicated that a "Notice of Drawing Inconsistency with Specification" had been mailed May 16, 2005. Ms. Lions indicated that Applicants' Attorney should speak directly with the Drawing Specialist, Ms. Nadine Clark. The next day, July 21, 2005, Applicants' attorney spoke with Ms. Clark. She indicated that a "Notice of Drawing Inconsistency with Specification" was mailed May 16, 2005, that Applicants had not responded to this Notice, and that the Application was abandoned. Applicants' attorney pointed out that the only "Notice of Drawing Inconsistency with Specification" that had been received was the Notice of April 19, 2005, and that a response had been timely filed on May 9, 2005. Additionally, Applicants' attorney indicated that Applicants had *not* received a Notice of Abandonment, and that the USPTO PAIR system indicated the application to be *active*. Applicants also indicated to Ms. Clark that the PAIR system contained an entry for May 16, 2005, but that the pdf file associated with the entry was actually a copy of the April 19, 2005 Notice. Ms. Clark indicated that Applicants' Attorney could speak with Director Bawcomb. Applicants' Attorney left a message for him to contact Applicants' Attorney about the application.

On July 26, 2005, Mr. Bawcomb contacted Applicants' Attorney. Applicants' Attorney explained the history of the situation to Mr. Bawcomb. Mr. Bawcomb indicated that he would have his troubleshooter, Ms. Janet Higgins, investigate the matter. Later that day, Applicants' Attorney was contacted by Ms. Higgins (two separate telephone conversations). She indicated that there had indeed been a clerical error whereby the original Notice of April 19, 2005 had been misdocketed as sent on May 16, 2005. She also indicated that Applicants timely response of May 9, 2005 had been received and that the docketing error made it appear as though the Notice had never been responded to. **Ms. Higgins confirmed that the application had not gone abandoned and was still active. She also indicated that Ms. Clark had been made aware of the error, that Applicants' response of May 9, 2005 had been found responsive, and that the application was in order to proceed to issuance.** Ms. Higgins indicated that the time to issuance would be approximately six weeks and that Applicants' Attorney should feel free to contact her should there be any follow-up questions or issues.

Again, than you for your assistance and the assistance of your staff in resolving this matter.

Respectfully submitted,



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Date: August 3, 2005
Reg. No.: 34,714

Tel. No.: 203-848-6920
Fax No.: 203-624-5627

cc: Assist. Commissioner Peggy Focarino
Ms. Janet Higgins (Office of Patent Publication)
Ms. Darleen Lions (Office of Patent Publication)
Ms. Nadine Clark (Drawing Specialist, Office of Patent Publication)